IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1168 OF 2007

IN

ARBITRATION PETITION NO. 65 OF 2003

L & T Finance Ltd. ... Petitioners.

V/s.

F.A. and Master Associates ... Respondents.

Ms. Shakuntala Joshi for petitioners to show cause.

Mr. A. M. Saraogi for respondent in support of notice of motion.

CORAM : ANOOP V. MOHTA,J.

DATED : 20th April, 2007

P.C.

The present notice of motion in Arbitration petition No. 65 of 2003 which was disposed of based on the consent terms dated 22nd December, 2006.

2. The Court had passed interim order against the respondents on 24th February, 2003 and appointed a Court receiver.

3. By order dated 22nd December, 2006 on Court

receiver's report No. 206 of 2006 in the petition after hearing the court receiver and counsel on behalf of the petitioners and the respondents, the consent terms in question had been taken on record and the matter was disposed of.

4. Admittedly, the consent term was duly signed by the respective advocates and the authorized officer of the respondents. Now, by this notice of motion the appellant wants to invoke the power of this Court on a foundation that there was no such authority given to Mr.Narendra Sharma to enter into the consent terms and even to sign the same. In an affidavit in support of notice of motion, the averments are made about the collusion and connivance by the said officer with the petitioner Company's officials.

5. In the present case, admittedly, there is no material at this stage which is justifying to set aside the said consent terms on the basis of allegations made in the petition against the said officer. Admittedly, the said consent terms at the relevant time was signed by the respective advocates also. Such compromise or settlement cannot be challenged at the later stage by the parties. There

are no such allegations made against the advocates.

6. Admittedly, the arbitration petition between the parties is still pending. The appellant may take appropriate proceedings if they wants to proceed against the said officer. However, after considering the special power of Attorney as executed in the name of said Mr. Narendra Sharma, dated 21/09/2006 which shows that the appellant company had authorized Mr.Narendra Sharma specifically in these two matters i.e. Arbitration Petition No.64 of 2003 and 65 of 2003 to engage a lawyer or attorney if deemed necessary and to sign the Vakalatnama or any other deed or document in the conduct of the said proceedings and also to go in appeal. The submission as raised by the learned counsel appearing for the appellant, therefore, needs to be rejected on all counts.

7. Taking all this into account, I am not inclined to interfere with the consent terms as signed by the advocates & the parties at the relevant time and which was endorsed by the Court. The notice of motion is dismissed. The prayer of interim protection is also rejected.

[ANOOP V. MOHTA, J.]